

CORAM: M. H. KADRI, J.

(5th Febryary, 1996)

ORAL JUDGMENT.

The State of Gujarat has preferred this appeal for enhancement of sentence awarded to the two respondents by the learned Judicial Magistrate First Class, Mahuva, by his order dated 7.12.1987, passed in Criminal Case No. 1485 of 1987, whereby the two respondents-accused on accepting the plea of guilty were convicted and sentenced to suffer S.I. for 10 days, for the offences punishable under Ss.457, 380 and 114 of the I.P.Code.

2. The offence took place at about 4.30 hours in the morning on 26.11.1987 at Mahuva town when the present respondents-accused had committed trespass into the shops of the original complainant and one Shamji Bhana and had stolen an amount of Rs.377.25 ps. and other articles. After completing the investigation, charge-sheet came to be filed against the two accused for the offences as stated above, in the court of the learned JMFC, Mahuva. Charge Exh.5 was framed against the accused on 7.12.1987. Both the accused pleaded guilty to the offence. The learned Magistrate, accepting the plea of guilty, convicted and sentenced both the accused as stated hereinabove.

3. The State of Gujarat being aggrieved by the aforesaid order of sentence has filed this appeal for enhancement of sentence. I have heard Mr.S.T.Mehta, ld.APP. It must be stated that the offence in question had taken place on 26.11.1987. The accused had filed a purshis Ex.4 before the learned Magistrate, wherein they admitted to have committed the offence, but both of them pleaded that they come from very poor family, this was their first offence, and they were in custody since last 12 days and therefore, mercy be shown to them. The learned Magistrate accepting the plea of guilty and taking into consideration the poverty of the accused, and also the fact that they were in judicial custody since last 12 days, has imposed a lighter punishment.

4. In my opinion, in the facts and circumstances of this particular case, it cannot be said that the sentence imposed on the respondents-accused by the learned Magistrate is inadequate or unfair. Moreover, the offence in question had taken place on 26.11.1987. Therefore, after the lapse of such a long period, no useful purpose will be served by allowing the appeal and enhancing the sentence imposed on the respondents.

5. In the result, the appeal fails, and is dismissed accordingly.

/All the corrections are carried out/